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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,157	12/01/2000	Gary B. Casper	0056UR	3658
7590	07/19/2004			
Paul S. Rooy 2620 S. Peninsula Dr Daytona Beach, FL 32118			EXAMINER KYLE, CHARLES R	
			ART UNIT 3624	PAPER NUMBER

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/728,157

Applicant(s)

CASPER, GARY B.

Examiner

Charles R Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They recite the phrase "at step H of "An appropriate said seller". It is unclear how one would judge a seller to be appropriate.

Regarding claims 1-6 the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### *Claim Rejections - 35 USC § 103*

**Claims 1, 2, 4 and 6** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,684,196 *Mini et al* in view of US 6,671,674 *Anderson et al*.

**With respect to Claim 1**, *Mini* discloses the invention substantially as claimed including in an Internet real estate auction (Summary of the Invention) with buyer pre-approval (Col. 9, line 42-Col. 11, line 12) method comprising the steps of:

A. One or more seller listing, for a set period of time, one or more real estate offerings which may include at least one picture, at an auction web (Col. 5, lines 23-36 and Col. 6, line 59 to Col. 7, line 13);

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B. One or more prospective buyers applying for pre-approval by tilling out one or more pre-approval questionnaires located on said auction web site, at least one said questionnaire being provided by each of one or more lenders (Col. 9, lines 53-63);

C. Said auction web site operator sending a notice of completed questionnaire to each said lender for whom a prospective said buyer has filled out at least one said pre-approval questionnaire (Col. 9, lines 57-63);

D. Each of the notified lenders accessing applicant buyer information at said auction web site, and also accessing such information as is necessary to reach a pre-approval decision for that said buyer (Col. 9, line 42-63);

E. Each said notified lender deciding whether to pre-approve each said applicant buyer, and if affirmative, to what credit limit, and notifying each said applicant buyer of such pre-approval decision (Col. 10, line 16 to Col. 11, line 12; Notification of a credit limit is fundamental to loan processing because it specifies the maximum amount to loan and implies maximum lender risk);

F. One or more said pre-approved buyers browsing said real estate offerings listed on said auction web site (Col. 10, lines 16-48);

G. Said one or more pre-approved buyers placing one or more bids through said auction web site to buy one or more properties listed there (Col. 7, line 42 to Col. 8, line 5);

H. An appropriate said seller accepting, at such said seller's discretion, a bid pertaining to one said property offered for sale by such seller (Col. 13, lines 25-35); and

I. Said buyer confirming such bid and acceptance (Fig. 16, ele. 1632, Col. 12, lines 47-53), and providing an earnest money deposit (Fig. 16, ele. 1618; Col. 12, lines 25-46) and real

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estate sales contract (Col. 8, line 40 to Col. 9, line 8) to an appropriate escrow agent, such as a title company, within a fixed period of time (Col. 12, line 66 to Col. 13, line 6).

*Mini* does not specifically disclose the use of lender and buyer passwords to allow participants access to real estate auction functions. *Anderson* discloses the use of buyer and seller passwords (Col. 7, lines 11-19) in a real estate auction (Col. 4, lines 48-56), particularly for pre-qualified bidders, as in *Mini*. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Mini* to limit access through the password use of *Anderson* because this would limit access to registered, qualified users. As to bidders, this would help assure that they were capable of completing payment, as disclosed by *Anderson* at Col. 7, lines 16-19. Also see *Anderson* at Summary of the Invention regarding pre-qualification.

As to the limitations of limited time listings and a seller paid fee, Official Notice is taken that these are old and well known in the art of real estate business. For example, limited time listings allow a buyer to change realtors if a particular agent is ineffective at obtaining a buyer. Further, seller paid fees are known to reimburse listing agents and lower apparent costs to buyers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include these limitations to make a purchase of real estate more attractive to a potential bidder/buyer.

**With respect to Claim 2,** *Mini* discloses the use of e-mail for buyer notification at Col 14, lines 15-29. Official Notice is taken that e-mail bids were old and well known at the time of

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the invention and would be obvious as a familiar and inexpensive way to communicate bid information.

**With respect to Claim 4,** *Mini* discloses the invention substantially as claimed. See the discussion of Claim 1. *Mini* does not specifically disclose providing a picture of a seller's property. *Anderson* discloses this feature at Fig. 8A and Col. 6, lines 60-67. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Mini* with the property picture disclosed by *Anderson* because this would allow a bidder to judge the appearance of the property.

**Concerning Claim 6,** *Mini* discloses a sales contract to be completed at Col. 8, line 56 to Col. 9, line 8 and delivery of contract documents to execute at Col.15, lines 49-65.

**Claims 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,684,196 *Mini et al* in view of US 6,671,674 *Anderson et al* and further in view of US 6,594,633 *Broerman*.

**With respect to Claim 3,** *Mini* discloses the invention substantially as claimed. See the discussion of Claim 1 above. *Mini* does not disclose that the web site operator/agent provides advertising signage. *Broerman* discloses such signage at Col. 13, lines 1-6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Mini* with the provision of signage disclosed by *Broerman* because this would provide noticeable outdoor advertising for the property offered.

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**Claims 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,684,196 *Mini et al* in view of US 6,671,674 *Anderson et al* and further in view of US 5,815,557 *Larson*.

**With respect to Claim 5**, *Mini* discloses the invention substantially as claimed. See the discussion of Claim 1 above. *Mini* does not disclose providing a lockbox for a seller's fee. *Larson* discloses a lockbox at Summary of the Invention, at least. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Mini* by providing the lockbox of *Larson* for a fee because this would provide revenues to the agent/operator.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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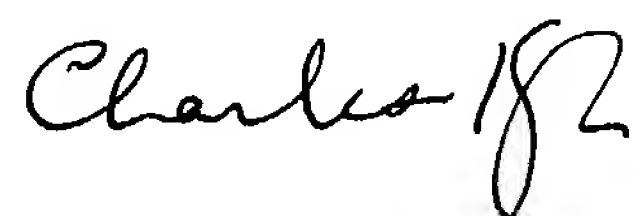
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crk

July 12, 2004

Examiner Charles Kyle

A handwritten signature in cursive script, appearing to read "Charles Kyle", followed by a stylized flourish or initial.